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SUBJECT: VIETNAM BUSINESS FORUM: ENTERPRISES DIALOGUE WITH GVN ON  
ECONOMIC DEVELOPMENT NEEDS

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¶1. (SBU) Summary: During the May 30 Mid-Term Vietnam Business Forum, timed in connection with the June 1 Mid-Term Vietnam Consultative Group Meeting, foreign and domestic trade associations held a dialogue with the Government of Vietnam (GVN) on ways that Vietnam can capitalize on recent economic successes and continue to improve its business and investment climates. Business community representatives consistently delivered messages on the need for the GVN to: improve human resource development and training activities; accelerate infrastructure development; fully implement its WTO commitments on market access; continue banking and financial sector reforms; and, improve transparency and good governance practices. The GVN responded to these concerns by reaffirming its commitment to continue institutional reforms and implementation of its international commitments to meet the demands of the international and domestic business communities. End Summary.

¶2. (U) At the May 30 Mid-Term Vietnam Business Forum (VBF) Meeting in Hanoi, timed to coincide with the mid-term donor Consultative Group meeting, the Government of Vietnam (GVN) exchanged views with domestic and foreign trade associations on how Vietnam can capitalize on its recent economic success, including its January 2007 accession to the World Trade Organization (WTO), to increase trade and investment opportunities and sustain strong economic growth. In addition to a session for trade associations to present their perceptions of the investment climate here, the Forum discussed: banking and capital markets; implementation of WTO commitments; implementation of the Enterprise and Investment Laws; and, heard reports from the Port, Tourism and Mining Working Groups.

¶3. (U) The GVN side, led by Minister of Planning and Investment Vo Hong Phuc (who also served as VBF Co-Chairman), confirmed Vietnam's commitment to continue improving the business environment, including expanded market access and financial and banking sector reforms. These measures will be critical to helping Vietnam reach its goal of becoming a middle income country by 2010, Minister Phuc said.

¶4. (U) Forum Co-Chairs Martin Rama, Acting World Bank Country Director, and Mr. Sin Foong Wong, International Finance Corporation (IFC) Country Manager, commented in their opening remarks that this 20th meeting of the VBF provided an opportunity for the GVN and the business community to discuss what is needed to bring Vietnam even further along its path of economic development. Acknowledging the

progress made as Vietnam pursued WTO membership, Rama noted that more complex and challenging reforms will be required for Vietnam to continue to the next stage of economic development. Referencing the day's discussion agenda, the Co-Chairs said that Vietnam will need to follow through on its WTO commitments, continue financial sector reforms and upgrade its infrastructure if it is to overcome the next set, or "second generation," of challenges and issues as it continues the transition to a market economy.

#### BUSINESSES REVIEW VIETNAM'S INVESTMENT CLIMATE

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15. (SBU) In the opening session of the forum, foreign and domestic trade associations raised concerns and issues on behalf of their members. Throughout the session, speakers noted their appreciation for the opportunity to dialogue with the GVN through the VBF, while encouraging even closer coordination as Vietnam works through new challenges and seeks to capitalize on the opportunities of its WTO membership. Notably, representatives from several Vietnamese trade associations, including the Ho Chi Minh City Association of Garment, Textile, Embroidery and Knitting (AGTEK), the Can Tho Business Association and the Hanoi Young Business Association joined their international counterparts in expressing concerns and requesting GVN action to improve the business climate. (Note: AGTEK also used part of its five minutes to decry the U.S. Department of Commerce's apparel import monitoring mechanism, stating that the program is "illogical" in its nature. End note.)

16. (U) HUMAN RESOURCES: Participants consistently raised the shortage of adequately trained human resources as a restraint to further economic development. Many firms are struggling to hire and retain skilled professionals, particularly at the mid-management level, business representatives explained. The Eurocham representative stated that the private sector and the GVN must work

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cooperatively to find solutions for this problem. Participants raised several suggestions, including calling on the GVN to lift restrictions on the establishment of foreign-invested education and training institutions, establishing a public-private committee to review the workforce development issue and increased GVN support to provide professional education and skills training.

17. (U) INFRASTRUCTURE: Vietnamese and foreign trade associations consistently raised the need to accelerate infrastructure development, particularly seaports and electricity supply. Businesses described how the current infrastructure system is insufficient to keep up with the growing volume of exports and the expected increase in demand as Vietnam's economy continues to open - threatening future foreign direct investment (FDI). The AmCham representative encouraged the GVN to open infrastructure development to more private sector participation. A Ministry of Transportation official responded that the GVN has set up an inter-ministerial committee to examine infrastructure problems, noting also that the GVN has made a determination to transfer some development projects from state-owned enterprises (SOEs) to the private sector as a way to address Vietnam's infrastructure needs.

18. (SBU) IMPLEMENTING WTO COMMITMENTS: A number of participants urged Vietnam to meet its WTO obligations as soon as possible, particularly its commitments on trading and distribution rights. The AmCham, Eurocham and AusCham speakers each raised the need for the Ministry of Trade (MOT) to issue implementing guidance on trading rights for foreign invested enterprises (Decree 23) as soon as possible. Citing the example of how the Ministries of Trade (MOT) and Industry (MOI) worked with the U.S. business community to develop an apparel export licensing system, the AmCham representative, Jocelyn Tran, expressed the hope that the GVN would also work with the business community to develop effective, WTO-compliant policies in other areas. (Note: Ms. Tran's presentation included an encouragingly positive picture of the state of U.S.-Vietnam bilateral apparel trade, stating that MOT's export license system has helped to "preserve" apparel trade "despite Commerce's Import Monitoring Mechanism," with apparel exports in the first four months of 2007 up more than 20 percent over last year. The U.S. industry as a whole does not necessarily share Ms. Tran's

view of the effectiveness, desirability or utility of export licenses. End note.)

¶9. (SBU) TRANSPARENCY AND CORRUPTION: Many speakers raised concerns over corruption and weak or opaque legislative reforms. One representative characterized corruption as "one of the greatest concerns" among foreign firms looking to do business in Vietnam. Domestic trade associations also called on the GVN to improve transparency. In its submitted statement, the Hanoi Young Business Association said that "Vietnamese corporate governance is inappropriate," for foreign companies, noting that Vietnam still lacks transparency and reliability in meeting its international commitments.

#### JAPANESE SURVEY IDENTIFIES HIGH INVESTMENTS COSTS

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¶10. (U) In a presentation of its findings from a November 2006 survey of 30 major cities in Asia, the Japan External Trade Organization (JETRO) concluded that while in many categories Vietnam remains a competitive destination for investment, there are several areas where costs here are much higher than other cities in the region. For one, mid-level management wages are higher than the regional average, largely due to a shortage in supply. Vietnam also has the second highest costs for office rent of the 30 areas surveyed, behind only Singapore, highlighting the need for additional office space. Finally, the JETRO survey stated that higher-than-average telecom costs must also be addressed to improve Vietnam's competitiveness as an investment destination.

#### FIRMS ADVOCATE FOR INTERNATIONAL BANKING PRACTICES

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¶11. (U) The VBF Banking Working Group (BWG) recognized the State Bank of Vietnam (SBV) for its progress in passing regulations in the banking sector. Working Group Chair Charly Madan (Citigroup Country Officer Vietnam) noted, however, that Vietnam still has more work to do to bring banking regulations in line with international practices and its WTO commitments, especially in achieving a level playing field for foreign and domestic banks. One area requiring more work

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is the foreign exchange system, according to Madan, who urged Vietnam to conduct a comprehensive review of regulations governing foreign exchange transactions. The Vietnamese legal system should also recognize and apply international law to cross-border transactions, said the BWG speaker, commenting that foreign banks need access to the court system rather than settling disputes through arbitration, which is the current practice. SBV Deputy Governor Phung Khac Ke responded that the SBV will issue further implementing documents on foreign exchange transactions soon and will continue its work to ensure the banking sector is WTO-compliant.

#### CAPITAL MARKETS: MORE COORDINATION NEEDED FOR STABILITY

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¶12. (U) The Capital Markets Working Group called for better GVN inter-agency coordination and cooperation to ensure stability and guard against possible risks in the face of rapid growth of the capital market in Vietnam. The Working Group was pleased with the progress the GVN has made in licensing more than 100 institutions to participate in the capital markets here, but cautioned that the GVN must regulate these licensed entities appropriately in order to protect investors. The Working Group also suggested that the GVN consider allowing private firms to raise capital through issuance of corporate bonds (SOEs can already issue bonds). Finally, the GVN should provide incentives for long-term mobilization of funds in the market, said the Working Group speaker. One measure to accomplish this would be to allow non-state employers to set up retirement or provident funds, he continued.

¶13. (U) Vice Minister of Finance Tran Xuan Ha agreed that inter-agency coordination will be critical to ensure market sustainability. He also noted that the MOF has issued regulations to govern bond issuance by private firms, and advised that it is in

the process of establishing credit rating agencies so that enterprises can evaluate their risk before issuing bonds. Finally, VM Ha noted that given the rapid institutionalization of the capital markets, the GVN must be diligent in ensuring that these institutions are transparent. He also suggested that these new organizations will need to focus on staff training and development.

#### ONGOING WTO IMPLEMENTATION CONCERNS

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¶14. (SBU) Fred Burke, speaking on behalf of the Manufacturing and Distribution Working Group, raised a number of ongoing concerns over Vietnam's implementation of its WTO commitments. Worried about what Burke called the proliferation of requirements for "baby permits," the Working Group urged Vietnam to issue guidance to implement Decree 23 on Trading Rights for Foreign-Invested Enterprises as soon as possible. Foreign companies are not able to receive their licenses for trading rights until these regulations are completed, causing a significant delay in their ability to avail themselves of their rights under the WTO, said Burke. The Working Group also asked the GVN to clarify licensing procedures for foreign trading branches, as no licenses have been issued to date.

¶15. (U) The Working Group suggested that the GVN should use the criteria in Vietnam's Investment Law to distinguish between foreign and local companies, meaning that if a company is 51 percent owned by a Vietnamese national, it should be treated as a local company. They also encouraged Vietnam to view its WTO commitments as a "floor" and not a "ceiling," encouraging market liberalization above and beyond commitments made as part of the WTO accession process. Finally, the Working Group noted that Vietnam has instituted a number of "impediments" to trading activities, including requiring an Economic Needs Test and instituting burdensome requirements for foreign representative offices to re-register.

¶16. (U) MPI's Legal Department Director General Pham Manh Dzung explained that MPI is drafting a decree to implement some of Vietnam's WTO commitments, which they have shared with the business community through the VBF. Dzung said that this document would recognize the principle that Vietnam's WTO commitments are a "floor" and would provide flexibility for sectors to open earlier or provide more favorable treatment than provided in the WTO Agreement, if the GVN so decides. On the issue of representative office re-registrations, he agreed that MPI experienced some "initial problems," but it has instructed local authorities to proceed with registrations, and consult with the MPI if they have any questions.

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He said that following this guidance, re-registrations are "going better" but that MPI may consider extending the window to give enterprises sufficient time to complete the process.

¶17. (U) Ministry of Trade's Multilateral Trade Department Director General Tran Quoc Khanh welcomed the business community's comments, and reaffirmed Vietnam's seriousness to implement fully its WTO commitments. On implementing guidance for Decree 23 on trading rights, he explained that its issuance has been delayed due to the "complexity" of the commitment, but assured the VBF that it would be issued very soon. Khanh continued by reminding the audience that Vietnam distinguishes between import rights and distribution rights, and they are working to make this distinction clear in the draft regulation. Responding to concerns over Vietnam's Economic Needs Test requirement, Khanh explained that this is intended to protect Vietnam's many small retailers from being forced out of business. Finally, DG Khanh said that on foreign trading branches, businesses should refer to Decree 72, which provides guidance on this issue. He continued by stating that Vietnam's WTO commitments do not require it to allow trading branches in many areas, including distribution services and advertising, for example.

#### IMPLEMENTING THE INVESTMENT AND ENTERPRISE LAWS

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¶18. (U) Mr. Tran Anh Duc from the Manufacturing and Distribution Working Group presented a laundry list of areas where it sought further work by the GVN to clarify implementation of the Enterprise

and Investment Laws. The Working Group requested additional guidance on:

-- Vietnam's Decree 108 providing guidance on activities in Vietnam's conditional sectors.

-- Converting Business Cooperation Contracts (BCCs) into Joint Ventures.

-- Operational aspects of enterprise activities, including qualifications of a company director and managers.

-- Loosening restrictions in Article 84.5 of the Investment Law on transferring shares of local firms to foreign investors.

¶19. (U) MPI's Legal Department DG Dzung reported that his ministry is drafting additional guidance to address all of these concerns, except conversion of BCCs into Joint Ventures. He explained that guidances provided under the Investment and Enterprise Laws already address this process, but he agreed to review them one more time to ensure that they are complete.

#### PORTS, TOURISM AND MINING WORKING GROUP PRESENTATIONS

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¶20. (U) Representatives from the Port, Tourism and Mining Working Groups all discussed the progress they have made through consultations with the relevant GVN agencies, but pushed for continued coordination in the future. The Ports Working Group largely reiterated concerns raised earlier about the need to accelerate infrastructure development in Vietnam. The Tourism Working Group noted that Vietnam faces several obstacles to keep pace of growing tourism demand, including improving service quality and developing more hotels and better transportation systems to facilitate the needs of foreign and domestic tourists. On a less positive note, the Mining Working Group lamented that Vietnam's mineral potential will remain largely untapped unless the GVN adopts a more open and welcome policy for foreign investors in this sector.

#### CLOSING REMARKS

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¶21. (U) In his closing remarks, Planning and Investment Minister Phuc noted his appreciation for the valuable contributions of the business community during the Business Forum. He committed to ensuring the GVN's continued implementation of its market access commitments and work on institutional reforms to meet the demands of the international business community, but noted that Vietnam "can't do everything overnight." The World Bank's Martin Rama closed by summarizing the common themes raised throughout the meeting - market access, financial sector reform, human resource development and

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infrastructure needs - noting that these were all "challenges driven by Vietnam's own success." He expressed confidence that ongoing cooperation through the VBF would contribute significantly to meeting those challenges.

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